

AMENDED IN SENATE MAY 12, 2010  
AMENDED IN SENATE SEPTEMBER 4, 2009  
AMENDED IN SENATE SEPTEMBER 2, 2009  
AMENDED IN ASSEMBLY MAY 21, 2009  
AMENDED IN ASSEMBLY APRIL 13, 2009  
AMENDED IN ASSEMBLY MARCH 25, 2009  
AMENDED IN ASSEMBLY FEBRUARY 26, 2009

CALIFORNIA LEGISLATURE—2009–10 REGULAR SESSION

## ASSEMBLY BILL

**No. 15**

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**Introduced by Assembly Member Fuentes  
(Principal coauthor: Assembly Member Smyth)**

December 1, 2008

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~~An act to amend Sections 218, 17207, and 24347.5 of, and to add Sections 170.5, 195.149, 195.150, and 195.151 to, the Revenue and Taxation Code, relating to disaster relief, making an appropriation therefor, and declaring the urgency thereof, to take effect immediately. An act to amend Section 1016.5 of the Penal Code, relating to criminal procedure.~~

### LEGISLATIVE COUNSEL'S DIGEST

AB 15, as amended, Fuentes. ~~Disaster relief.~~ *Criminal procedure: pleas.*

*Existing law requires the court, prior to the acceptance of a plea of guilty or nolo contendere to advise the defendant that if he or she is not a citizen, conviction of the crime charged may result in deportation,*

*exclusion from admission to the United States, or denial of naturalization.*

*This bill would additionally require the court to advise the defendant that, if he or she is deported from the United States and returns illegally, he or she could be charged with either or both of 2 separate federal offenses, as specified. The bill would make other conforming changes.*

~~(1) Existing law authorizes a county board of supervisors to provide by ordinance for the reassessment of property that is damaged or destroyed, without fault on the part of the assessee, by a major misfortune or calamity, upon the application of the assessee or upon the action of the county assessor with the board's approval. With respect to certain counties that have adopted reassessment ordinances and have been declared by the Governor to be in a state of emergency as a result of certain events, existing law provides for state allocations of the estimated amounts of the reductions in property tax revenues resulting in certain fiscal years from reassessments under those ordinances. Existing law also continuously appropriates, without regard to fiscal years, moneys in the Special Fund for Economic Uncertainties for purposes of funding these state allocations.~~

~~This bill would provide for similar state allocations with respect to property tax revenue reductions resulting from a reassessment for damages incurred within the Counties of Los Angeles and Ventura, which were declared by the Governor to be in a state of emergency due to the wildfires that commenced in October 2008 or November 2008.~~

~~By requiring moneys continuously appropriated from the Special Fund for Economic Uncertainties to be allocated for the new purpose of reimbursing the Counties of Los Angeles and Ventura for these property tax revenue reductions, this bill would make an appropriation.~~

~~(2) Existing property tax law provides, pursuant to a specified provision of the California Constitution, for a homeowners' property tax exemption in the amount of \$7,000 of the full value of a "dwelling," as defined.~~

~~This bill would also provide that any dwelling that qualified for the exemption prior to the commencement dates of the wildfires that were the subject of the Governor's proclamations in October 2008 and November 2008, that was damaged or destroyed by the wildfires in the Counties of Los Angeles and Ventura, and that has not changed ownership since the commencement date of those wildfires, may not be denied the exemption solely on the basis that the dwelling was temporarily damaged or destroyed or was being reconstructed by the~~

~~owner, or was temporarily uninhabited as a result of restricted access to the property due to wildfires.~~

~~The California Constitution requires the Legislature, in each fiscal year, to reimburse local governments for the revenue losses incurred by those governments in that fiscal year as a result of the homeowners' property tax exemption.~~

~~This bill would state the intent of the Legislature to make this required reimbursement in the annual Budget Act. By requiring local tax officials to implement new exemption criteria, this bill would impose a state-mandated local program.~~

~~The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.~~

~~This bill would provide that, if the Commission on State Mandates determines that the bill contains costs mandated by the state, reimbursement for those costs shall be made pursuant to these statutory provisions.~~

~~(3) The Personal Income Tax Law and the Corporation Tax Law provide for the carryover to specified taxable years of specified losses sustained as a result of certain disasters occurring in California in an area determined by the President of the United States to warrant specified federal assistance, or proclaimed by the Governor to be in a state of emergency.~~

~~This bill would extend these provisions to losses sustained in the Counties of Los Angeles and Ventura as a result of the wildfires that commenced in October 2008 or November 2008. This bill would authorize a taxpayer to make an election to claim a deduction for those losses on the tax return for the preceding year.~~

~~(4) Existing law requires the auditor of a county which was the subject of the Governor's proclamation of a state of emergency to certify to the Director of Finance an estimate of the total reduction in property tax revenues resulting from the reassessment by the county assessor of those properties that are eligible as a result of disasters, and requires the director to verify the county auditor's estimate and certify that amount to the Controller for allocation to the county.~~

~~This bill would require, for any fire disaster occurring after January 1, 2010, the Department of Finance not to certify a county auditor's estimate of the total reduction in property tax resulting from the reassessment by the county assessor of eligible properties as a result of~~

~~those disasters unless the county demonstrates compliance with specified requirements at the time the fire disaster occurred.~~

~~(5) This bill would incorporate additional changes in Sections 218, 17207, and 24347.5 of the Revenue and Taxation Code proposed by AB 50, to be operative only if AB 50 and this bill are both enacted and become effective on or before January 1, 2010, both bills amend those sections, this bill is enacted after AB 50, and both AB 666 and SB 505 are enacted.~~

~~(6) This bill would become operative only if both AB 666 and SB 505 of the 2009–10 Regular Session of the Legislature are enacted in 2009, and the operative date would depend on the enactment date of those bills.~~

~~(7) This bill would declare that it is to take effect immediately as an urgency statute.~~

Vote:  $\frac{2}{3}$  majority. Appropriation: ~~yes~~ no. Fiscal committee: ~~yes~~ no. State-mandated local program: ~~yes~~ no.

*The people of the State of California do enact as follows:*

1     SECTION 1. Section 1016.5 of the Penal Code is amended to  
2     read:

3     1016.5. (a) Prior to acceptance of a plea of guilty or nolo  
4     contendere to any offense punishable as a crime under state law,  
5     except offenses designated as infractions under state law, the court  
6     shall administer ~~the following~~ *an* advisement on the record to the  
7     ~~defendant~~ *defendant as specified in paragraphs (1) and (2).*

8     (1) *If the plea is accepted after January 1, 1978, the court shall*  
9     *give the following advisement:*

10    *If you are not a citizen, you are hereby advised that conviction*  
11    *of the offense for which you have been charged may have the*  
12    *consequences of deportation, exclusion from admission to the*  
13    *United States, or denial of naturalization pursuant to the laws of*  
14    *the United States.*

15    (2) *If the plea is accepted on or after January 1, 2010, the court*  
16    *shall give the following advisement as well:*

17    *Further, if you are deported from the United States and return*  
18    *illegally, you could be charged with a separate federal offense for*  
19    *illegal reentry into the United States, pursuant to Section 1325,*  
20    *1326, or both 1325 and 1326, of Title 8 of the United States Code,*  
21    *which impose harsh penalties.*

(b) Upon request, the court shall allow the defendant additional time to consider the appropriateness of the plea in light of the advisement as described in this section. If, after January 1, 1978, the court fails to advise the defendant as required by ~~this section and paragraph (1) of subdivision (a) or, after January 1, 2010,~~ *fails to advise the defendant as required by paragraphs (1) and (2) of subdivision (a)* and the defendant shows that conviction of the offense to which defendant pleaded guilty or nolo contendere may have the consequences for the defendant of deportation, exclusion from admission to the United States, or denial of naturalization pursuant to the laws of the United States, the court, on defendant's motion, shall vacate the judgment and permit the defendant to withdraw the plea of guilty or nolo contendere, and enter a plea of not guilty. Absent a record that the court provided the advisement required by this section, the defendant shall be presumed not to have received the required advisement.

(c) ~~With respect to pleas a plea accepted prior to January 1, 1978 the dates specified in paragraphs (1) and (2) of subdivision (a),~~ it is not the intent of the Legislature that a court's failure to provide the advisement *as required by subdivision (a) of Section 1016.5* should require the vacation of judgment and withdrawal of the plea or constitute grounds for finding a prior conviction invalid. Nothing in this section, however, shall be deemed to inhibit a court, in the sound exercise of its discretion, from vacating a judgment and permitting a defendant to withdraw a plea.

(d) The Legislature finds and declares that in many instances involving an individual who is not a citizen of the United States charged with an offense punishable as a crime under state law, a plea of guilty or nolo contendere is entered without the defendant knowing that a conviction of such offense is grounds for deportation, exclusion from admission to the United States, or denial of naturalization pursuant to the laws of the United States. Therefore, it is the intent of the Legislature in enacting this section to promote fairness to such accused individuals by requiring in such cases that acceptance of a guilty plea or plea of nolo contendere be preceded by an appropriate warning of the special consequences for such a defendant which may result from the plea. It is also the intent of the Legislature that the court in such cases shall grant the defendant a reasonable amount of time to negotiate with the prosecuting agency in the event the defendant or the

1 defendant's counsel was unaware of the possibility of deportation,  
2 exclusion from admission to the United States, or denial of  
3 naturalization as a result of conviction. It is further the intent of  
4 the Legislature that at the time of the plea no defendant shall be  
5 required to disclose his or her legal status to the court.

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8 **All matter omitted in this version of the bill**  
9 **appears in the bill as amended in the**  
10 **Senate, September 4, 2009. (JR11)**  
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